



CITY OF LODI

COUNCIL COMMUNICATION

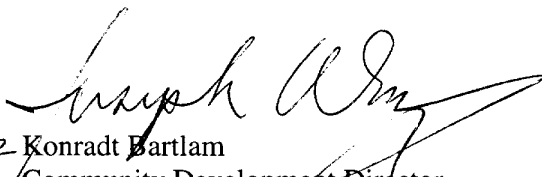
AGENDA TITLE: Continue public hearing until December 18, 2002 to consider the appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited.

MEETING DATE: October 16, 2002

PREPARED BY: Community Development Director

RECOMMENDED ACTION: That the City Council continue the public hearing until December 18, 2002 to consider the appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited.

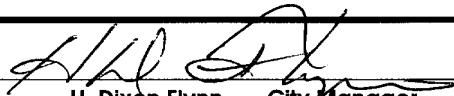
FUNDING: None required


FOR Konradt Bartlam
Community Development Director

KB/lw

Attachment

APPROVED: _____


H. Dixon Flynn -- City Manager

OCT. -08' 02 (TUE) 15:27

NEUMILLER & BEARDSLEE

TEL: 209 948 4910

P. 002



ESTABLISHED 1903

11094-28243

Anthony L. Vignolo

509 WEST WEBER AVENUE
FIFTH FLOOR
STOCKTON, CA 95203

October 8, 2002

POST OFFICE BOX 20
STOCKTON, CA 95201-3020

Via U.S. Mail and Fax

(209) 948-8200
(209) 948-4910 FAX

Lisa Wagner
Community Development Dept.
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

FROM MODESTO:
(209) 577-8200
(209) 577-4910 FAX

Re: Legends Unlimited, Inc./Appeal Hearing for Revocation of Use Permit

Dear Ms. Wagner:

Pursuant to our telephone conversation of October 7, 2002, this is to confirm that, on behalf of my client, Legends Unlimited, Inc., I will be requesting that the Lodi City Council grant a continuance of the appeal hearing, currently scheduled for October 16, 2002, for the above-referenced matter.

As we discussed, the close of escrow for the sale of the business can only occur, pursuant to the requirements of the Department of Alcoholic Beverage Control, on or after the date on which the liquor license is transferred to the buyer. Thus, in light of the 30 - 60 day time period necessary to effectuate a transfer of liquor license, I will specifically be requesting that the hearing regarding the above-referenced matter be set for the City Council's meeting of December 18, 2002. Pursuant to the agreement executed with the new buyer, Legends will not be operating after October 11, 2002.

I will also formally make the foregoing continuance request to the City Council by written letter. As I will be on vacation during the week of October 14, 2002, another attorney from this office will be appearing at the hearing on October 16, 2002 to address any questions that the City Council may have regarding the continuance request.

OCT. -08' 02 (TUE) 15:28

NEUMILLER & BEARDSLEE

TEL:209 948 4910

P. 003

Lisa Wagner
October 8, 2002
Page 2

If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "A. L. Vignolo", written over a horizontal line.

ANTHONY L. VIGNOLO
Attorney-at-Law

ALV:cln



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF CONTINUED PUBLIC HEARING

Date: OCTOBER 16, 2002

Time: 7:00 p.m.

For information regarding this notice please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

NOTICE OF CONTINUED PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the August 21, 2002 public hearing of the City Council of the City of Lodi to consider public comments / testimony regarding an appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No.99-02 for Legends Unlimited, has been **continued to Wednesday, October 16, 2002**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard in the Lodi City Council Chambers, Carnegie Forum, 305 W. Pine Street, Lodi, California.

Posted August 22, 2002

SUSAN J. BLACKSTON
CITY CLERK
of the City of Lodi

DECLARATION OF POSTING
NOTICE OF CONTINUED PUBLIC HEARING
OF THE CITY COUNCIL OF THE CITY OF LODI

I, Susan J. Blackston, hereby certify that on August 22, 2002 I posted "NOTICE OF CONTINUED PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF LODI TO CONSIDER CONTINUED PUBLIC HEARING TO OCTOBER 16, 2002 TO CONSIDER APPEAL REGARDING USE PERMIT 99-02 REVOCATION, LEGENDS UNLIMITED", near the Council Chamber door; that said Notice remained posted until after the hour set for said hearing, as shown on said Notice.


A copy of said "NOTICE OF CONTINUED PUBLIC HEARING" as posted near the Council Chamber door, is shown on the attached and is made a part of this Certificate of Posting.

Dated: August 22, 2002
(Date Posted - Must be within 24 hours)

ORDERED BY:

SUSAN J. BLACKSTON
CITY CLERK OF THE CITY OF LODI

ORDERED BY:


PATRICIA OCHOA
ADMINISTRATIVE CLERK

JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK



DECLARATION OF POSTING

CONTINUED PUBLIC HEARING TO OCTOBER 16, 2002 TO CONSIDER APPEAL REGARDING USE PERMIT 99-02 REVOCATION, LEGENDS UNLIMITED.

On Thursday, August 22, 2002 in the City of Lodi, San Joaquin County, California, a copy of the continued Public Hearing to consider appeal regarding Legends Unlimited (attached hereto, marked Exhibit "A") was posted at the following four locations:

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

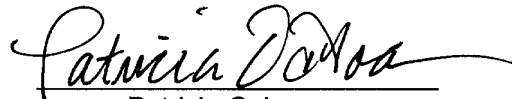
Executed on August 22, 2002 at Lodi, California.

ORDERED BY:

**SUSAN J. BLACKSTON
CITY CLERK**

Jacqueline L. Taylor
Deputy City Clerk

Jennifer M. Perrin
Deputy City Clerk


Patricia Ochoa
Administrative Clerk

CITY COUNCIL

PHILLIP A. PENNINO, Mayor
SUSAN HITCHCOCK,
Mayor Pro Tempore
EMILY HOWARD
KEITH LAND
ALAN S. NAKANISHI

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807
cityclrk@lodi.gov

H. DIXON FLYNN
City Manager
SUSAN J. BLACKSTON
City Clerk
RANDALL A. HAYS
City Attorney

August 22, 2002

MAILED CERTIFIED MAIL #7000 1670 0008 4483 0923
AND REGULAR U.S. POSTAL DELIVERY

Anthony L. Vignolo, Attorney at Law
Neumiller & Beardslee
P.O. Box 20
Stockton, CA. 95201-3020

**RE: CONTINUED PUBLIC HEARING – OCTOBER 16, 2002
TO CONSIDER APPEAL REGARDING USE PERMIT 99-02 REVOCATION,
LEGENDS UNLIMITED, INC.**

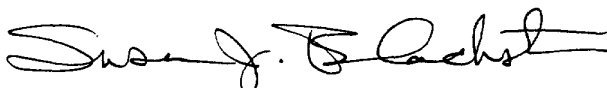
This letter is to notify you that the public hearing on August 21, 2002 was opened and continued to **Wednesday, October 16, 2002, at 7:00 p.m.**, or as soon thereafter as the matter can be heard, at the Carnegie Forum, 305 W. Pine Street, Lodi.

The hearing is being held to consider your appeal on behalf of Legends Unlimited, Inc. and owner Jacqueline Brown, of the Planning Commission's decision on July 10, 2002 to revoke Use Permit No. 99-22.

If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing.
Note: Written correspondence for the City Council may be mailed in c/o the City Clerk's Office, P.O. Box 3006, Lodi, CA 95241-1910, or delivered to the City Clerk at 221 West Pine Street, Lodi, California.

Should you have any questions, please contact Community Improvement Director Rad Bartlam in the Community Development Department at (209) 333-6823.

Sincerely,



Susan J. Blackston
City Clerk

SJB/PO

cc: Jacqueline Brown, Legends Unlimited
Community Development Director



DECLARATION OF MAILING
LETTER TO APPELLANT

CONTINUED PUBLIC HEARING TO OCTOBER 16, 2002
TO CONSIDER APPEAL REGARDING USE PERMIT 99-02 REVOCATION, LEGENDS
UNLIMITED

On August 22, 2002, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, and additionally, United States certified mail envelopes with first-class postage prepaid thereon and indication of return receipt requested, containing a letter of notification, a copy of which is attached hereto, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 22, 2002, at Lodi, California.

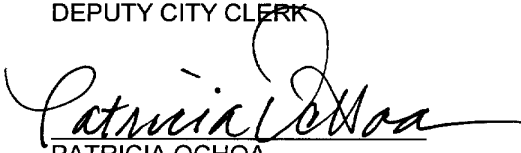
ORDERED BY:

SUSAN BLACKSTON
CITY CLERK, CITY OF LODI

ORDERED BY:

JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK



PATRICIA OCHOA
ADMINISTRATIVE CLERK

CITY OF LODI

CITY HALL, 221 W. PINE ST.
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

Anthony L. Vignolo, Attorney at Law
Neumiller & Beardslee
P.O. Box 20
Stockton, CA. 95201-3020

CITY OF LODI

CITY HALL, 221 W. PINE ST.
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

Jacqueline Brown
c/o Legends Unlimited, Inc.
27 West Elm Street
Lodi, CA 95240

CITY COUNCIL

PHILLIP A. PENNINO, Mayor
SUSAN HITCHCOCK,
Mayor Pro Tempore
EMILY HOWARD
KEITH LAND
ALAN S. NAKANISHI

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807
cityclrk@lodi.gov

H. DIXON FLYNN
City Manager
SUSAN J. BLACKSTON
City Clerk
RANDALL A. HAYS
City Attorney

October 17, 2002

MAILED CERTIFIED MAIL #7002 0860 0004 0501 4771
AND REGULAR U.S. POSTAL DELIVERY

Anthony L. Vignolo, Attorney at Law
Neumiller & Beardslee
P.O. Box 20
Stockton, CA. 95201-3020

**RE: CONTINUED PUBLIC HEARING – DECEMBER 18, 2002
TO CONSIDER APPEAL REGARDING USE PERMIT 99-02 REVOCATION,
LEGENDS UNLIMITED, INC.**

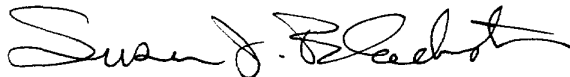
This letter is to notify you that the public hearing on October 16, 2002 was opened and continued to **Wednesday, December 18, 2002, at 7:00 p.m.**, or as soon thereafter as the matter can be heard, at the Carnegie Forum, 305 W. Pine Street, Lodi.

The hearing is being held to consider your appeal on behalf of Legends Unlimited, Inc. and owner Jacqueline Brown, of the Planning Commission's decision on July 10, 2002 to revoke Use Permit No. 99-22.

If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing.
Note: Written correspondence for the City Council may be mailed in c/o the City Clerk's Office, P.O. Box 3006, Lodi, CA 95241-1910, or delivered to the City Clerk at 221 West Pine Street, Lodi, California.

Should you have any questions, please contact Community Improvement Director Rad Bartlam in the Community Development Department at (209) 333-6823.

Sincerely,



Susan J. Blackston
City Clerk

SJB/JLT

cc: Jacqueline Brown, Legends Unlimited
Community Development Director



DECLARATION OF MAILING
LETTER TO APPELLANT

CONTINUED PUBLIC HEARING TO DECEMBER 18, 2002 TO CONSIDER APPEAL
REGARDING USE PERMIT 99-02 REVOCATION, LEGENDS UNLIMITED

On October 17, 2002, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, and additionally, United States certified mail envelopes with first-class postage prepaid thereon and indication of return receipt requested, containing a letter of notification, a copy of which is attached hereto, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

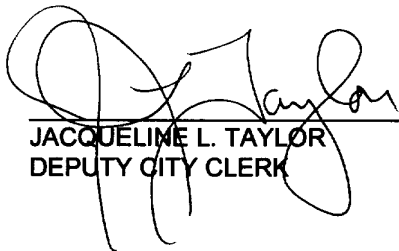
I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 17, 2002, at Lodi, California.

ORDERED BY:

SUSAN BLACKSTON
CITY CLERK, CITY OF LODI

ORDERED BY:


JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK

PATRICIA OCHOA
ADMINISTRATIVE CLERK

MAILING LIST
APPEAL OF PLANNING COMMISSION DECISION, LEGENDS UNLIMITED

Anthony L. Vignolo, Attorney at Law
Neumiller & Beardslee
P.O. Box 20
Stockton, CA 95201-3020

Jacqueline Brown
c/o Legends Unlimited, Inc.
27 West Elm Street
Lodi, CA 95240



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF CONTINUED PUBLIC HEARING

Date: December 18, 2002

Time: 7:00 p.m.

For information regarding this notice please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

NOTICE OF CONTINUED PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the October 16, 2002 public hearing of the City Council of the City of Lodi to consider public comments / testimony regarding an appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No.99-02 for Legends Unlimited, has been **continued to Wednesday, December 18, 2002**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard in the Lodi City Council Chambers, Carnegie Forum, 305 W. Pine Street, Lodi, California.

Posted October 17, 2002

SUSAN J. BLACKSTON

CITY CLERK

of the City of Lodi

DECLARATION OF POSTING
NOTICE OF CONTINUED PUBLIC HEARING
OF THE CITY COUNCIL OF THE CITY OF LODI

I, Susan J. Blackston, hereby certify that on October 17, 2002 I posted "NOTICE OF CONTINUED PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF LODI TO CONSIDER CONTINUED PUBLIC HEARING TO DECEMBER 18, 2002 TO CONSIDER APPEAL REGARDING USE PERMIT 99-02 REVOCATION, LEGENDS UNLIMITED", near the Council Chamber door; that said Notice remained posted until after the hour set for said hearing, as shown on said Notice.

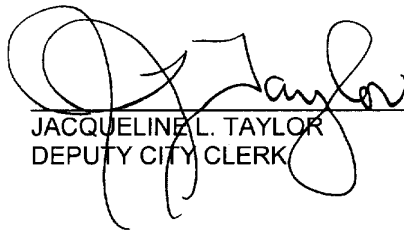
A copy of said "NOTICE OF CONTINUED PUBLIC HEARING" as posted near the Council Chamber door, is shown on the attached and is made a part of this Certificate of Posting.

Dated: October 17, 2002
 (Date Posted - Must be within 24 hours)

ORDERED BY:

SUSAN J. BLACKSTON
CITY CLERK OF THE CITY OF LODI

ORDERED BY:



JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

PATRICIA OCHOA
ADMINISTRATIVE CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK

G-1

11094-28243

RECEIVED

OCT 11 2002

City Clerk
City of Lodi

Anthony L. Vignolo

509 WEST WEBER AVENUE
FIFTH FLOOR
STOCKTON, CA 95203

POST OFFICE BOX 20
STOCKTON, CA 95201-3020

(209) 948-8200
(209) 948-4910 FAX

FROM MODESTO:
(209) 577-8200
(209) 577-4910 FAX

October 9, 2002

Via Fax and U.S. Mail

Councilmembers
Lodi City Council
c/o City Clerk's Office
P.O. Box 3006
Lodi, CA 95241-1910

<input checked="" type="checkbox"/> CC	<input type="checkbox"/> HR
<input checked="" type="checkbox"/> CM	<input type="checkbox"/> IS
<input checked="" type="checkbox"/> CA	<input type="checkbox"/> LIB
<input checked="" type="checkbox"/> CD	<input type="checkbox"/> PR
<input type="checkbox"/> EUD	<input type="checkbox"/> PD
<input type="checkbox"/> FIN	<input type="checkbox"/> PW
<input type="checkbox"/> FD	<input type="checkbox"/> COM

Re: Appeal of Planning Commission Decision/
Revocation of Use Permit of Legends Unlimited, Inc.

Dear Councilmembers:

My client, Legends Unlimited, Inc. ("Legends"), is respectfully requesting a continuance of the hearing on the above-referenced matter, currently scheduled for October 16, 2002, to a date certain of December 18, 2002.

Last week, Jackie Brown, sole shareholder of Legends, entered into a contract for the purchase and sale of the assets of Legends with Bruce Viel and John Denigris. Mr. Denigris is the current owner of the Habanero Hots restaurant in Lodi, and intends on renovating the kitchen and restaurant facilities of Legends.

Pursuant to the purchase agreement, Legends will cease operations beginning October 11, 2002 and will be closed until the close of escrow for the sale of the assets and liquor license. Pursuant to requirements of the Department of Alcoholic Beverage Control, close of escrow for the assets must coincide with the close of escrow for the liquor license, which cannot occur for approximately 30 - 45 days from the date that the application to transfer the liquor license is submitted. Accordingly, the parties expect that escrow will close on or before December 18, 2002.

For obvious reasons, my client does not wish to withdraw the pending appeal until escrow for the sale of the assets and liquor license closes and the transfer is completed. In light of the foregoing, and considering that Legends will not be operating after October 11, 2002, we hope that the Council agrees that my client's

Councilmembers
October 9, 2002
Page 2

request for a continuance of the above-referenced appeal hearing to a date certain of December 18, 2002, is appropriate.

Although I will be on vacation during the week of October 14, 2002, an attorney from this office will be attending the hearing on October 16, 2002 to address any questions that the Council may have regarding my client's continuance request. In the meantime, if you have any questions or concerns, please do not hesitate to contact me. The Council's continuing patience and cooperation is appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read "A. L. Vignolo", written in a cursive style.

ANTHONY L. VIGNOLO
Attorney-at-Law

ALV:cln